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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,775	11/20/2003	John A. Grigio	1001.1719101	8387
28075	7590	10/12/2007	EXAMINER	
CROMPTON, SEAGER & TUFTE, LLC			PRONE, CHRISTOPHER D	
1221 NICOLLET AVENUE				
SUITE 800			ART UNIT	PAPER NUMBER
MINNEAPOLIS, MN 55403-2420			3738	
			MAIL DATE	DELIVERY MODE
			10/12/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/717,775	GRIEGO ET AL.
	Examiner Christopher D. Prone	Art Unit 3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 August 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3,5-7,20-37 and 39-50 is/are pending in the application.
- 4a) Of the above claim(s) 5,6,20-36 and 44-50 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3,7,37 and 39-43 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION*****Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent 6,235,026 Smith.

The main embodiment relied upon is shown in figures 8 and 9, but since the full invention is not shown in relation to figures 8 and 9 reference numbers will be used and referred to for figures 1 and 8-9.

Smith discloses the same invention being a surgical snare device comprising tubular sheath (86), a movable shaft (292) extending there through, a swivel (290) having first end coupled to the distal end of the shaft and a second end attached to a snare loop comprising proximal leg (294) having a portion disposed within the swivel body (290) shown in figures 8 and 9, and a handle (50) with slide portion (52), wherein the device has a first closed position with most of the snare loop 294 withdrawn back into sheath 86 and a second open position with both parts of the snare loop 24 and 294 extending out from the sheath 86.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103 as being unpatentable over Smith in view of United States Patent 4,326,530 Fleury Jr.

Smith discloses the invention substantially as claimed being a surgical snare device described above. However, Smith does not disclose that the surgical loop includes a braid.

Fleury Jr teaches the use of a surgical loop comprising a braid in the same field of endeavor for the purpose of providing a loop with enhanced fidelity giving the user a better feel for what is happening with the loop.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the braided loop of Fleury Jr with the surgical snare device of Smith in order to provide a loop with enhanced fidelity.

Claims 39-41 and 43 are rejected under 35 U.S.C. 103 as being unpatentable over Smith in view of United States Patent 2002/0151889 Swanson et al.

Smith discloses the same invention being described above. However Smith fails to disclose a loop comprising a plurality of branches that extend within the swivel body.

Swanson teaches the use of a surgical snare comprising a snare loop having a plurality of proximal legs that each extend back to a handle in the same field of endeavor for the purpose of enhancing the operators ability to maneuver and snare objects. (See figures 36-38 and 48-49)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the loop member comprising a plurality of proximal legs with the surgical snare device of Smith in order to provide a loop with enhanced maneuverability.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith as applied to Claims 39-41 and 43 above, and further in view of United States Patent 4,326,530 Fleury Jr.

Smith as modified by Swanson discloses the invention substantially as claimed being described above. However, the combination does not disclose that the surgical loop includes a braid.

Fleury Jr teaches the use of a surgical loop comprising a braid in the same field of endeavor for the purpose of providing a loop with enhanced fidelity giving the user a better feel for what is happening with the loop.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the braided loop of Fleury Jr with the surgical snare device of Smith as modified by Swanson in order to provide a loop with enhanced fidelity.

#### ***Response to Arguments***

Applicant's arguments filed 8/18/07 have been fully considered but they are not persuasive.

The applicant argues that the proximal legs of Smith do not directly connect to the second end of the swivel. However since the claims only require one proximal leg the examiner considering the loop member to be a single proximal leg (294), which does directly connect to the second end of the swivel.

Applicant's arguments with respect to claims 39-43 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is

Art Unit: 3738

filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Prone whose telephone number is (571) 272-6085. The examiner can normally be reached on Monday Through Fri 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3738

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher D Prone  
Examiner  
Art Unit 3738

  
CDP

  
CORRINE McDERMOTT  
SUPERVISORY PATENT EXAMINER  
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